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WESTERN DISTRICT OF LOUISIANA
MONROE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

DAVID MICHAEL REESE

CIVIL ACTION NO. 04-2601-P

versus

JUDGE ROBERT G. JAMES

TIMOTHY WILKERSON, WARDEN

MAG. JUDGE KAREN L. HAYES

RULING

On December 22, 2004, Petitioner David Michael Reese, acting *pro se*, filed this habeas corpus petition pursuant to 28 U.S.C. § 2254. On June 13, 2005, Magistrate Judge James D. Kirk issued a report recommending that Reese's Complaint be dismissed as time barred by the one year limitation period codified at 28 U.S.C. § 2244(d). A copy of this Report and Recommendation was forwarded to Reese at the Winn Correctional Center, his last known place of confinement. The Report and Recommendation was returned to the Clerk of Court on June 28, 2005, marked "not at winn."

Local Rule 41.3W, in pertinent part, provides:

The failure of an attorney or *pro se* litigant to keep the Court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to the Court for the reason of an incorrect address and no correction is made to the address for a period of 30 days.

In the present case, the Magistrate Judge's Report and Recommendation was returned to the Clerk of Court as undeliverable on June 28, 2005. As of August 8, 2005, Reese has still failed to advise the Court of his new address. Thus, the thirty day period within which Reese was required to notify the Court of his new address has expired.

Therefore, Reese's habeas petition is DISMISSED WITHOUT PREJUDICE for failure to

prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Local Rule 41.3W.

MONROE, LOUISIANA, this 8 day of August, 2005.

A handwritten signature in black ink, appearing to read "Robert G. James", is written over a horizontal line.

ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE